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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke Probation
Against:

12 JAMES ALLEN STEWART
13 245 South Serrano #313
Los Angeles, CA 90004
14 Registered Nurse License No. 519438

15 Respondent.

Case No.

98-162

**PETITION TO REVOKE
PROBATION**

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17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Petition to
20 Revoke Probation solely in her official capacity as the Executive Officer of the Board of
21 Registered Nursing, Department of Consumer Affairs.

22 2. On or about February 20, 1996, the Board of Registered Nursing (Board)
23 issued Registered Nurse License Number 519438 to James Allen Stewart (Respondent). The
24 Registered Nurse License expired on December 31, 2005, and has not been renewed.¹
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28 1. On or about March 22, 1991, Respondent was issued Vocational Nurse License No.
152307 by the Board of Vocational Nurses and Psychiatric Technicians. Vocational Nurse
License No. 152307 expired on December 31, 1996, and was revoked on April 14, 1999. The
Vocational Nurse License is not a subject of this petition.

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1 **Condition 2. [Compliance with Probation Program.]** Petitioner shall
2 fully comply with the conditions of the Probation Program established by the
3 Board and cooperate with representatives of the Board in its monitoring and
4 investigation of the petitioner's compliance with the Board's Probation Program.
5 Petitioner shall inform the Board in writing within no more than 15 days of any
6 address change and shall at all times maintain an active, current license status with
7 the Board, including during any period of suspension.

8 **Condition 3. [Report in Person.]** Petitioner, during the period of
9 probation, shall appear in person at interviews/meetings as directed by the Board
10 or its designated representatives.

11 **Condition 5. [Submit Written Reports.]** Petitioner, during the period
12 of probation, shall submit or cause to be submitted such written
13 reports/declarations and verification of actions under penalty of perjury, as
14 required by the Board. These reports/declarations shall contain statements relative
15 to petitioner's compliance with all the conditions of the Board's Probation
16 Program. Petitioner shall immediately execute all release of information forms as
17 may be required by the Board or its representatives.

18 **Condition 11. [Cost Recovery.]** Petitioner shall pay to the Board costs
19 associated with its investigation and enforcement pursuant to Business and
20 Professions Code Section 125.3 in the amount of thirteen thousand four hundred
21 seventeen dollars and seventy-five cents (\$13,417.75) [footnote omitted].
22 Petitioner shall be permitted to pay these costs in a payment plan approved by the
23 Board, with payments to be completed no later than three months prior to the end
24 of the probation term.

25 **Condition 13. [Participate in Treatment/Rehabilitation Program for
26 Chemical Dependence.]** Petitioner, at his expense, shall successfully complete
27 during the probationary period or shall have successfully completed prior to
28 commencement of probation a Board-approved treatment/rehabilitation program
of at least six months duration. As required, reports shall be submitted by the
program on forms provided by the Board. If petitioner has not completed a
Board-approved treatment/rehabilitation program prior to commencement of
probation, petitioner, within 45 days from the effective date of the decision, shall
be enrolled in a program. If a program is not successfully completed within the
first nine months of probation, the Board shall consider petitioner in violation of
probation.

 Based on Board recommendation, each week petitioner shall be required to
attend at least one, but no more than five 12-step recovery meetings or equivalent
(e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support
group as approved and directed by the Board. If a nurse support group is not
available, an additional 12-step meeting or equivalent shall be added. Petitioner
shall submit dated and signed documentation confirming such attendance to the
Board during the entire period of probation. Petitioner shall continue with the
recovery plan recommended by the treatment/rehabilitation program or a licensed
mental health examiner and/or other ongoing recovery groups.

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1 **Condition 14. [Abstain From Use of Psychotropic (Mood-altering**
2 **Drugs.]** Petitioner shall completely abstain from the possession, injection or
3 consumption by any route of all psychotropic (mood altering) drugs, including
4 alcohol, except when the same are ordered by a health care professional legally
5 authorized to do so as part of documented medical treatment. Petitioner shall
6 have sent to the Board, in writing and within fourteen (14) days, by the
7 prescribing health professional, a report identifying the medication, dosage, the
8 date the medication was prescribed, petitioner's prognosis, the date the medication
9 will no longer be required, and the effect on the recovery plan, if appropriate.

10 Petitioner shall identify for the Board a single physician, nurse practitioner
11 or physician assistant who shall be aware of petitioner's history of substance
12 abuse and will coordinate and monitor any prescriptions for petitioner for
13 dangerous drugs, controlled substances or mood-altering drugs. The coordinating
14 physician, nurse practitioner, or physician assistant shall report to the Board on a
15 quarterly basis petitioner's compliance with this condition. If any substances
16 considered addictive have been prescribed, the report shall identify a program for
17 the time limited use of any such substances.

18 The Board may require the single coordinating physician, nurse
19 practitioner, or physician assistant to be a specialist in addictive medicine, or to
20 consult with a specialist in addictive medicine.

21 **Condition 15. [Submit to Tests and Samples.]** Petitioner, at his
22 expense, shall participate in a random, biological fluid testing or a drug screening
23 program which the Board approves. The length of time and frequency will be
24 subject to approval by the Board. The petitioner is responsible for keeping the
25 Board informed of petitioner's current telephone number at all times. Petitioner
26 shall also ensure that messages may be left at the telephone number when he/she
27 is not available and ensure that reports are submitted directly by the testing agency
28 to the Board, as directed. Any confirmed positive finding shall be reported
immediately to the Board by the program and shall be considered a violation of
probation.

18 In addition, petitioner, at any time during the period of probation, shall
19 fully cooperate with the Board or any of its representatives, and shall, when
20 requested, submit to such tests and samples as the Board or its representatives
21 may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or
22 other controlled substances.

23 If petitioner has a positive drug screen for any substance not legally
24 authorized and not reported to the coordinating physician, nurse practitioner, or
25 physician assistant, and the Board files a petition to revoke probation or an
26 accusation, the Board may suspend petitioner from practice pending the final
27 decision on the petition to revoke probation or the accusation. This period of
28 suspension will not apply to the reduction of this probationary time period.

25 **Condition 16. [Mental Health Examination.]** Petitioner shall, within
26 45 days of the effective date of this decision, have a mental health examination
27 including psychological testing as appropriate to determine his capability to
28 perform the duties of a registered nurse. The examination will be performed by a
psychiatrist, psychologist or other licensed mental health practitioner approved by
the Board. The examining mental health practitioner will submit a written report
of that assessment and recommendations to the Board. All costs are the
responsibility of the petitioner. Recommendations for treatment, therapy or

1 counseling made as a result of the mental health examination will be instituted
2 and followed by the petitioner.

3 If petitioner is determined to be unable to practice safely as a registered
4 nurse, the licensed mental health care practitioner making this determination shall
5 immediately notify the Board and petitioner by telephone, and the Board shall
6 request that the Attorney General's office prepare an accusation or petition to
7 revoke probation. Petitioner shall immediately cease practice and may not resume
8 practice until notified by the Board. During this period of suspension, petitioner
9 shall not engage in any practice for which a license issued by the Board is
10 required, until the Board has notified petitioner that a mental health determination
11 permits petitioner to resume practice. This period of suspension will not apply to
12 the reduction of this probationary time period.

13 If petitioner fails to have the above assessment submitted to the Board
14 within the 45-day requirement, petitioner shall immediately cease practice and
15 shall not resume practice until notified by the Board. This period of suspension
16 will not apply to the reduction of this probationary time period. The Board may
17 waive or postpone this suspension only if significant, documented evidence of
18 mitigation is provided. Such evidence must establish good faith efforts by
19 petitioner to obtain the assessment, and a specific date for compliance must be
20 provided. Only one such waiver or extension may be permitted.

21 **GROUNDS FOR REVOKING PROBATION**

22 8. Grounds exist for revoking probation and reimposing the order of
23 revocation of Respondent's license in that Respondent failed to comply with the following terms
24 and conditions of probation:

25 a. **Condition 2: Comply with the Board's Probation Program.**

26 Respondent failed to fully comply with the terms and conditions of his probation in that he
27 violated Condition Nos. 3, 5, 11, 13, 14, 15, and 16, as described below.

28 b. **Condition 3: Report in Person.** Respondent failed to appear for his
scheduled probation interview meeting on June 23, 2006, without notice.

c. **Condition 5: Submit Written Reports.** Respondent failed to timely
submit the following:

(i) Medical documentation regarding surgery, prescription
medications, and disability status;

(ii) Probationer's Interim Declarations;

(iii) the Mental Health Evaluation, which was due on October 15, 2003;

(iv) ongoing treatment forms;

(v) support group attendance forms;

- (vi) work performance evaluation forms; and
(vii) 12-step meeting attendance documentation.

d. **Condition 11: Cost Recovery.** Respondent failed to make regular cost recovery payments pursuant to the cost recovery payment plan. The current outstanding balance due is \$6,892.89.

e. **Condition 13: Participate in Treatment/Rehabilitation Program for Chemical Dependence.** After testing positive for alcohol on December 7, 2004, Respondent was instructed to complete a treatment program of at least a six months duration. He failed to do so. Respondent also failed to provide evidence of his attendance in the required 12-step and nurse support group meetings.

f. **Condition 14: Abstain From Use of Psychotropic (Mood-altering) Drugs.** Respondent tested positive for alcohol use on December 7, 2004. By Respondent's own admission, Respondent has consumed alcohol on more than occasion while on probation. Respondent also admitted to using Vicodin following surgery, but failed to provide the prescription information to the Board.

g. **Condition 15: Submit to Tests and Samples.** Respondent failed to participate in the random drug screening program, as evidenced by his failure to appear for screening on June 1, 2005; July 5, 2005; August 23, 2005; August 29, 2005; September 28, 2005; November 7, 2005; December 14, 2005; January 5, 2006; January 23, 2006; February 9, 2006; April 12, 2006; May 2, 2006; May 16, 2006; May 25, 2006; June 22, 2006; July 11, 2006; July 26, 2006; August 9, 2006; September 12, 2006; September 21, 2006; October 25, 2006; November 14, 2006; November 30, 2006; December 14, 2006; and April 25, 2007.

h. **Condition 16: Mental Health Examination.** Respondent failed to timely complete a mental health examination. The mental health examination due date was originally October 15, 2003. The due date was modified to December 30, 2004, but the examination was not completed until April 15, 2005.

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged and that, following the hearing, the Board issue a decision:

4 1. Revoking the probation that was granted by the Board in Case No. 98-162,
5 OAH Case No. N 2003060019, and imposing the disciplinary order that was stayed, thereby
6 revoking Registered Nurse License No. 519438 issued to James Allen Stewart;

7 2. Revoking or suspending Registered Nurse License No. 519438, issued to
8 James Allen Stewart; and

9 3. Taking such other and further action as deemed necessary and proper.

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11 DATED: 1/10/08

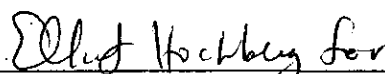
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14 RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant
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Exhibit A

Decision and Order

Board of Registered Nursing Case No. Case No. 98-162, OAH Case No. N 2003060019

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement of:

JAMES ALLEN STEWART
245 South Serrano #313
Los Angeles, CA 90004

Registered Nurse License No. 519438

Respondent.

OAH No. N 2003060019

DECISION

The attached Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on August 30, 2003.

IT IS SO ORDERED this 31st day of July, 2003.

Sandra Erickson

Sandra Erickson, C.R.N.A., President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for Reinstatement
of:

JAMES ALLEN STEWART
245 South Serrano #313
Los Angeles, California 90004

Registered Nurse License No. 519438

Petitioner.

OAH No. N 2003060019

DECISION

This matter was heard before a quorum of the Board of Registered Nursing on June 12, 2003, in San Francisco, California. Board members present and participating were Sandra Erickson, C.R.N.A., President, LaFrancine Tate, Vice President, Grace Corse, R.N., Cynthia Johnson, Ed.D., R.N., Carmen Morales-Board, M.S.N, R.N., and Dan C. Weitzman, Public Member. Administrative Law Judge Cheryl R. Tompkin, State of California, Office of Administrative Hearings, presided.

Rebecca M. Heinstein, Deputy Attorney General, represented the Office of the Attorney General.

Petitioner James Allen Stewart appeared on his own behalf.

This matter was submitted on June 12, 2003.

FACTUAL FINDINGS

1. On February 20, 1996, the Board of Registered Nursing (Board) issued license number 519438 to James Allen Stewart (petitioner).

2. Effective October 20, 1999, petitioner's registered nursing license was revoked by the Board pursuant to a decision following administrative hearing in Case No. 98-162. Disciplinary action was taken pursuant to Business and Professions Code sections 498 [securing a license by fraud, deceit or knowing misrepresentation or omission], 2761, subdivision (b) [procuring license by fraud, misrepresentation or mistake] and 2761,

subdivision (f) [conviction of a felony or an offense substantially related to the qualifications, functions and duties of a licensee]. The Board found that petitioner had falsely represented on his application for a registered nurse license that he had not been convicted of any offense other than minor traffic violations when, in fact, he had three criminal convictions.¹ On May 28, 1998, petitioner was convicted of attempting to file a false instrument, i.e., the false application for the registered nurse license.

3. On or about April 19, 2003, petitioner filed the pending petition for reinstatement.

4. Petitioner explains it was his "zeal to become an RN," as well as his self deception and refusal to consider himself a felon, that resulted in his decision to omit his convictions. Petitioner now acknowledges the inappropriateness of his actions and that honesty and integrity are particularly important qualities for a nurse since a nurse is responsible for the care of another human being.

5. Petitioner received his nursing training in the military. Following his release from the military he got a divorce and began using cocaine. He used cocaine in 1991 and 1992, and became addicted. His drug addition ultimately resulted in his three criminal convictions. Petitioner testified his drug use stopped in 1993, except for one occasion in 1995, and that he has been clean and sober since 1995. Petitioner feels he began using and became addicted to cocaine because he did not have the maturity or coping skills necessary to deal with what he faced after leaving the military. He feels that he is now much more responsible and he does not view drug use as an option to handle stress. Petitioner also successfully completed a 6 month recovery in October 2002, and his criminal probation ended on February 28, 2003. In addition, he has remarried and has children.

6. Petitioner currently works as an operational director and chief technician in the office laboratory of Michael K. Wensley M.D. Petitioner began employment with Dr. Wensley in April 1999 as a registered nurse. Following revocation of petitioner's nursing license petitioner accepted his current position. In his letter of reference Dr. Wensley states that petitioner is a professional, reliable, conscientious employee whose work product is excellent.

7. Petitioner also submitted a letter of reference in support of his petition from Bisher Akil, M.D. In his letter Dr. Akil states petitioner is a honest, hard working and conscientious individual.

8. Petitioner testified that since revocation of his license in 1999 he has taken some continuing education courses in a clinical laboratory setting, has done extensive research in the medical field and has co-authored a related medical paper.

¹ On September 3, 1992, petitioner was convicted of possession of cocaine. On February 1, 1993, he was convicted of reckless driving in flight from police officers. On May 4, 1993, he was convicted of being under the influence of a controlled substance.

9. The evidence presented demonstrated that petitioner has made great strides toward rehabilitation. He has demonstrated to the satisfaction of the Board that reinstatement of his license upon relevant probationary terms and conditions is warranted.

LEGAL CONCLUSIONS

Petitioner has established that cause exists to reinstate his license as a registered nurse on a probationary basis and subject to certain terms and conditions. (Bus. & Prof. Code, § 2760; Gov. Code, § 11522.)

ORDER

The petition of James Allen Stewart for reinstatement of his license is granted. A license shall be issued to petitioner. Said license shall immediately be revoked, the order of revocation stayed and petitioner placed on probation for a period of five (5) years on the following conditions.

1. Petitioner shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the petitioner to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, petitioner shall submit completed fingerprint forms and fingerprint fees within forty-five (45) days of the effective date of this Decision, unless previously submitted as part of the licensure application process.

2. Petitioner shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the petitioner's compliance with the Board's Probation Program. Petitioner shall inform the Board in writing within no more than fifteen (15) days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

3. Petitioner, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

4. Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Petitioner's probation is tolled, if, and when he resides outside of California. The petitioner must provide written notice to the Board within fifteen (15) days of any change of residency or practice outside the state, and within thirty (30) days prior to re-establishing residency or returning to practice in this state.

Petitioner shall provide a list of all states and territories where he has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Petitioner shall further

provide information regarding the status of each license and any changes in such license status during the term of probation. Petitioner shall inform the Board if he applies for or obtains a new nursing license during the term of probation.

5. Petitioner, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to petitioner's compliance with all the conditions of the Board's Probation Program. Petitioner shall immediately execute all release of information forms as may be required by the Board or its representatives.

Petitioner shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he has a registered nurse license.

6. Petitioner, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of twenty-four (24) hours per week for six (6) consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of twenty-four (24) hours per week for six (6) consecutive months or as determined by the Board.

If petitioner has not complied with this condition during the probationary term, and the petitioner has presented sufficient documentation of his good faith efforts to comply with this condition, and, if no other conditions have been violated, the Board, in its discretion, may grant an extension of the petitioner's probation period up to one (1) year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

7. Petitioner shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Petitioner shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Petitioner shall provide a copy of this decision to his employer and immediate supervisor prior to commencement of any nursing or other health care related employment.

In addition to the above, petitioner shall notify the Board in writing within seventy-two (72) hours after he obtains any nursing or other health care related employment. Petitioner shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated, regardless of cause, from any nursing, or other health care related

employment with a full explanation of the circumstances surrounding the termination or separation.

8. Petitioner shall obtain prior approval from the Board regarding petitioner's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Petitioner shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Petitioner's level of supervision and/or collaboration may include, but is not limited to, the following:

- a. Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- b. Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours petitioner works.
- c. Minimum - The individual providing supervision and/or collaboration has person-to-person communication with petitioner at least twice during each shift worked.
- d. Home Health Care - If petitioner is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with petitioner as required by the Board each work day. Petitioner shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by petitioner with or without petitioner present.

9. Petitioner shall not work for a nurse's registry, in any private duty position as a registered nurse, for a temporary nurse placement agency, as a traveling nurse or for an in-house nursing pool.

Petitioner shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Petitioner shall not work in any other registered nursing occupation where home visits are required.

Petitioner shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict petitioner from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Petitioner shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Petitioner shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If petitioner works or intends to work in excess of forty (40) hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. Petitioner, at his own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing as may be designated by the Board no later than six (6) months prior to the end of his probationary term.

Petitioner shall obtain prior approval from the Board before enrolling in the course(s). Petitioner shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to petitioner after photocopying them for its records.

11. Petitioner shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of thirteen thousand four hundred seventeen dollars and seventy-five cents (\$13,417.75).² Petitioner shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

12. Within forty-five (45) days of the effective date of this decision, petitioner, at his expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of petitioner's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by petitioner with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If petitioner is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall

² At the reinstatement hearing petitioner testified that he believes he has paid some of the cost reimbursement ordered by the Board in its decision revoking his license. However, petitioner failed to provide documentation of such payment at hearing.

immediately notify the Board and petitioner by telephone, and the Board shall request that the Attorney General's Office prepare an accusation or petition to revoke probation. Petitioner shall immediately cease practice and shall not resume practice until notified by the Board. During this period of suspension, petitioner shall not engage in any practice for which a license issued by the Board is required until the Board has notified petitioner that a medical determination permits petitioner to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If petitioner fails to have the above assessment submitted to the Board within the forty-five (45) day requirement, petitioner shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by petitioner to obtain the assessment, and a specific date for compliance must be provided.

13. Petitioner, at his expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six (6) months duration. As required, reports shall be submitted by the program on forms provided by the Board. If petitioner has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, petitioner, within forty-five (45) days from the effective date of this decision, shall be enrolled in a program. If a program is not successfully completed within the first nine (9) months of probation, the Board shall consider petitioner in violation of probation.

Based on Board recommendation, each week petitioner shall be required to attend at least one but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Petitioner shall submit dated and signed documentation confirming such attendance to the Board during the period of probation. Petitioner shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

14. Petitioner shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Petitioner shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, petitioner's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Petitioner shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of petitioner's history of substance abuse and will coordinate and monitor any prescriptions for petitioner for dangerous drugs, controlled

substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis petitioner's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

15. Petitioner, at his expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. Petitioner is responsible for keeping the Board informed of petitioner's current telephone number at all times. Petitioner shall also ensure that messages may be left at the telephone number when he is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and shall be considered a violation of probation.

In addition, petitioner, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If petitioner has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend petitioner from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

16. Petitioner shall, within forty-five (45) days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine his capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner shall submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the petitioner. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by petitioner.

If petitioner is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and petitioner by telephone and the Board shall request that the Attorney General's Office prepare an accusation or petition to revoke probation. Petitioner shall immediately cease practice and may not resume practice until notified by the Board. During the period of suspension, petitioner shall not engage in any practice for which a license issued by the Board is required, until the Board has notified petitioner that a mental health determination

permits petitioner to resume practice. This period of suspension will not apply to the reduction of this probationary period.

If petitioner fails to have the above assessment submitted to the Board within the forty-five (45) day requirement, petitioner shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by petitioner to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

17. Petitioner, at his expense, shall participate in an on-going counseling program until such time as the Board releases him from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor shall be required at various intervals.

18. If petitioner violates the conditions of his probation, the Board after giving petitioner notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of petitioner's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against petitioner's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against petitioner's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition to revoke probation has been acted upon by the Board.

19. During petitioner's term of probation, if he ceases practicing due to retirement, health reason or is otherwise unable to satisfy the conditions of probation, petitioner may surrender his license to the Board. The Board reserves the right to evaluate petitioner's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, petitioner will no longer be subject to the conditions of probation.


Surrender of petitioner's license will be considered a disciplinary action and shall become a part of petitioner's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- a. Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- b. One year for a license surrendered for a mental or physical illness.

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each term condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

Upon successful completion of probation, petitioner's license shall be fully restored.

DATED: 7/31/03



SANDRA ERICKSON, C.R.N.A.
President
Board of Registered Nursing
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

JAMES ALLEN STEWART, etc.)
6827 South Van Ness Ave.)
Los Angeles, CA 90047)

Respondent.)
_____)

No. 98-162

L-1999050200

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective October 10, 1999.

IT IS SO ORDERED September 10, 1999.

BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____

Mary Jo Gurn Ullman

BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation)	
against:)	Case No. 98-162
)	
JAMES ALLEN STEWART,)	L-1999050200
etc.)	
6827 So. Van Ness Ave.)	
Los Angeles, CA - 90047,)	
)	
Respondent.)	
)	
)	

PROPOSED DECISION

This matter came on regularly for hearing before Paul M. Hogan, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on June 29, 1999.

Complainant was represented by Lorrie M. Yost, Deputy Attorney General. James Allen Stewart, respondent, appeared personally without legal counsel.

Evidence, both oral and documentary, was presented, and the matter was submitted for decision. The Administrative Law Judge proposes this decision:

Findings of Fact

1. Complainant, Ruth Ann Terry, M.P.H., R.N., is the Executive Officer of the above-entitled agency, and filed the accusation herein while acting solely in her official capacity.
2. The parties have timely filed and served on one another all pleadings, notices and other papers as required by law. Jurisdiction for these proceedings exists.

3. Respondent holds Registered Nurse License number 519438 which is presently renewed through December 31, 1999.
4. On November 1, 1995, respondent obtained this license by means of his application in writing, filed by him with the Board of Registered nursing, in which he represented to the Board, under penalty of perjury, that he had not been convicted of any offense other than minor traffic violations. In fact, this representation was false, as respondent then knew, and respondent obtained his license from the Board by fraud. The facts were that respondent, on November 1, 1995 had the following criminal conviction record:

<u>Date</u>	<u>Violation</u>	<u>Court</u>
5-4-93	Under influence of controlled substance	S.B'do. Super.
2-1-93	Reckless driving in flight from officers	L.A. Super
9-3-92	Possession of cocaine	S.B'do. Muni.

5. On May 28, 1998 respondent was convicted in Los Angeles County Municipal Court of attempting to file a false instrument, i.e. the false application for a registered nurses license. He was placed on three years probation for this offense by the court, and remains on probation.
6. Respondent offered testimony to the effect that his criminal record is the product of a cocaine addiction which he has since conquered, and that his behavior in the early '90's was aberrational. There is no derogatory information bearing directly on his capacities as a nurse, except for his most recent criminal record. This, consisting of willful falsehood written for his sole benefit to a public agency under the penalty of the laws relating to perjury, has a clear relationship to the duty of nurses to maintain scrupulously truthful and accurate records of their acts and observations with respect to the patients in their care. The crime is most grave; it affects adversely the right and obligation of public institutions to rely on facts which dictate their actions.
7. All evidence presented by respondent in mitigation, explanation and extenuation has been considered. None of this evidence, which was entirely testimonial, was corroborated. Regrettably, the weight to be given respondent's testimony was adversely affected by his use of his perjurious application.

8. Complainant has incurred costs of investigation and prosecution in the sum of \$13,417.75.
9. All allegations contained in the accusation upon which no specific findings have been made hereinabove have either not been proved, or are deemed surplusage in light of the findings set forth in Findings 4 and 5 above.

Discussion and analysis

Considerable thought was given to the possibility of tailoring a probationary order which would fit with the facts presented by this young man's case. Assuming the truth of some of his testimony, he was graduated from his nursing class among the top ten students in a class exceeding 400. He claims to have had a good military record. He also claims to have conquered a cocaine addiction without the necessity of attendance at support groups. And he claims, at some stage in the game, to have gone through a "boot-camp" type of treatment program. The problem with all this is that his history is vague, and disjointed. There is no chronology which holds together. This, plus the problem with evaluating his testimony in light of his disastrous error in judgment in filing a perjurious application for a nursing license leads but to one unhappy result.

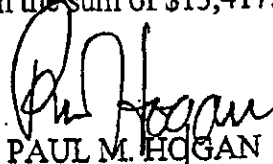
Conclusions of Law

1. Respondent's license is subject to discipline pursuant to Sections 498, 2761(b) and 2761(f) of the Business and Professions Code by reason of his acts and omissions set forth in the Findings of Fact above relating to his procurement of his nursing license by fraud, and by his criminal conviction relating to such procurement.
2. Revocation of the license is the minimum penalty called for by Section 1444.5, Title 16, California Code of Regulations. The record herein supports no deviation from the Board's penalty guidelines.

Order

The license is revoked. Complainant shall have and recover its costs of investigation and prosecution from respondent in the sum of \$13,417.75.

July 16, 1999



PAUL M. HOGAN
Administrative Law Judge
Office of Administrative Hearings

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 LORRIE M. YOST, State Bar No. 119088
Deputy Attorney General
3 300 South Spring Street, Suite 500
Los Angeles, California 90013
4 Telephone: (213) 897-2562

5 Attorneys for Complainant

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10 BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

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In the Matter of the Accusation)	NO. 98-162
Against:)	
)	
James Allen Stewart, also known as)	FIRST AMENDED
James Stewart, James Allen Stewart,)	<u>ACCUSATION</u>
Jr., and Stewart James Allen Jr.)	
6827 South Van Ness Avenue)	
Los Angeles, California 90047)	
)	
Respondent.)	

20 Ruth Ann Terry, M.P.H., R.N., for a first amended
21 accusation, alleges:

22 1. Complainant Ruth Ann Terry, M.P.H., R.N., makes and
23 files this first amended accusation in her official capacity as
24 Executive Officer, Board of Registered Nursing, Department of
25 Consumer Affairs (hereinafter referred to as "Board"). This
26 first amended accusation supersedes and replaces nunc pro tunc
27 the accusation heretofore filed.

1 2. On February 20, 1996, the Board of Registered
2 Nursing issued registered nurse license number 519438 to James
3 Allen Stewart, also known as James Stewart, James Allen Stewart,
4 Jr., and Stewart James Allen Jr. (hereinafter referred to as
5 "respondent"). The license is renewed until December 31, 1999.
6

7 3. Under Business and Professions Code section 2750,
8 the Board of Registered Nursing may discipline any licensee,
9 including a licensee holding a temporary or an inactive license,
10 for any reason provided in Article 3 of the Nursing Practice Act.

11 Under Business and Professions Code section 2764, the
12 expiration of a license shall not deprive the Board of Registered
13 Nursing of jurisdiction to proceed with a disciplinary proceeding
14 against the license or to render a decision imposing discipline
15 on the license. Under Business and Professions Code section
16 2811(b), the Board of Registered Nursing may reinstate an expired
17 license within eight years after the expiration.

18 Under Business and Professions Code section 498, the
19 Board of Registered Nursing may revoke, suspend, or otherwise
20 restrict a license on the ground that the licensee secured the
21 license by fraud, deceit, or knowing misrepresentation of a
22 material fact or by knowingly omitting to state a material fact.

23 Under Business and Professions Code section 490, the
24 Board may suspend or revoke a license when it finds that the
25 licensee has been convicted of a crime substantially related to
26 the qualifications, functions, or duties of a licensed registered
27 nurse.

1 Under Business and Professions Code section 125.3, the
2 Board may request the administrative law judge to direct a
3 licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs
5 of the investigation and enforcement of the case.

6
7 4. DRUGS

8 "Cocaine" is a Schedule II controlled substance as
9 designated by Health and Safety Code section 11055(b) (6).
10

11 5. Respondent has subjected his license to discipline
12 under Business and Professions Code section 2761(e) in that on or
13 about November 1, 1995, he knowingly made a false statement of
14 fact on his application # 367466 for licensure as a registered
15 nurse by certifying that he had not been convicted of any offense
16 other than minor traffic violations (Question Number "h").
17 Whereas, in fact, the following convictions were on record:

18 a. On or about May 4, 1993, respondent was convicted
19 on his plea of guilty in the San Bernardino County Superior
20 Court, Case No. MWV38983, entitled *People v. James Allen Stewart*,
21 of violating Health and Safety Code section 11550 (using or being
22 under the influence of a controlled substance).

23 The circumstances of the crimes for which respondent
24 was convicted are that on or about October 5, 1991, the Ontario
25 Police Department conducted a search at a local motel room in
26 Ontario, California, where they suspected drug trafficking
27 activities were occurring. Respondent was present in the motel

1 room during the time of the search and was asked to provided a
2 urine sample which subsequently tested positive for cocaine.

3 b. On or about February 1, 1993, respondent was
4 convicted on his plea of guilty in the Los Angeles County
5 Superior Court, Case No. YA013553-01, entitled *People v. Stewart*
6 *James Allen Jr.*, of violating Vehicle Code section 2800.2
7 (driving in willful or wanton disregard for safety of persons or
8 property while fleeing from pursuing police officer).

9 The circumstances of the crimes for which respondent
10 was convicted are that on or about October 30, 1992, respondent
11 failed to stop the vehicle he was driving when requested to do so
12 by the Hawthorne Police Department, in Hawthorne, California.
13 Respondent lead police on a high speed chase, running several
14 stop signs, and speeding through residential neighborhoods.

15 c. On or about September 3, 1992, respondent was
16 convicted on his plea of guilty in the San Bernardino County
17 Municipal Court District, Case No. FWV 28718, entitled *People v.*
18 *James Allen Stewart*, of violating Health and Safety Code section
19 11350(a) (possession of cocaine).

20 The circumstances of the crimes for which respondent
21 was convicted are that on or about October 16, 1991, respondent
22 willfully and unlawfully had in his possession a controlled
23 substance, to wit, cocaine.

24
25 6. Respondent has subjected his license to discipline
26 under Business and Professions Code section 2761(b) in that he
27 procured his registered nursing license number 519438 by fraud,

1 misrepresentation, or mistake, by knowingly answering "No" for
2 Question Number "h" on his application, when, in fact, he did
3 have convictions on record, as set forth in paragraph 5 above.
4

5 7. Respondent has subjected his license to discipline
6 under Business and Professions Code section 498 in that he
7 secured his registered nursing license number 519438 by fraud,
8 deceit, or knowing misrepresentation of a material fact or by
9 knowingly omitting to state a material fact, as set forth in
10 paragraph 5 above, which, if the truth had been known, would have
11 constituted grounds for denial of his application for licensure.
12

13 8. Respondent has subjected his license to discipline
14 under Business and Professions Code section 2761(f) as follows:

15 a. He was convicted of the crimes as set forth in
16 paragraph 5 above.

17 b. On or about May 28, 1998, respondent was convicted
18 by the court on his plea of nolo contendere in the Los Angeles
19 County Municipal Court, Case No. BA152539, entitled *People v.*
20 *James Allen Stewart*, of violating Penal Code section 115(a)
21 (attempt to file false or forged instrument).

22 The circumstances of the crime for which respondent was
23 convicted are that on or about November 1, 1995, in the County of
24 Los Angeles, respondent did unlawfully and knowingly procure and
25 offer a false and forged instrument (registered nurse license
26 application #367466) to be filed, registered, and recorded in a
27 public office within this state, which instrument, if genuine,

1 might be filed, registered, and recorded under a law of this
2 state or the United States.

3 Such offenses above are substantially related to the
4 qualifications, functions, and duties of a registered nurse,
5 within the meaning of Title 16, California Code of Regulations,
6 section 1444, in that they evidence a present or potential
7 unfitness on the part of respondent to perform the functions of a
8 registered nurse in a manner consistent with the public health,
9 safety, or welfare.

10

11 9. Respondent has subjected his license to discipline
12 under Business and Professions Code section 490 in that
13 respondent was convicted of crimes substantially related to the
14 qualifications, functions or duties of a registered nurse, as set
15 forth in paragraphs 5 and 8(b) above.

16

17 10. Respondent has subjected his license to discipline
18 under Business and Professions Code section 2761(a) on the
19 grounds of unprofessional conduct, as defined by section 2762(a)
20 of that code, in that he committed the following acts:

21 a. Respondent self-administered an unknown quantity
22 of cocaine, as set forth in paragraph 5(a) above, without lawful
23 direction from a licensed physician and surgeon, dentist, or
24 podiatrist.

25 b. Respondent possessed an unknown quantity of
26 cocaine, as set forth in paragraph 5(c) above, in violation of
27 Health and Safety Code section 11350(a).

1 WHEREFORE, complainant prays that a hearing be held and
2 that the Board of Registered Nursing make its order:

3 1. Revoking or suspending registered nurse license
4 number 519438, issued to James Allen Stewart, also known as James
5 Stewart, James Allen Stewart, Jr., and Stewart James Allen Jr.

6 2. Ordering James Allen Stewart, also known as James
7 Stewart, James Allen Stewart, Jr., and Stewart James Allen Jr. to
8 pay to the Board its costs in investigating and enforcing the
9 case according to proof at the hearing, pursuant to Business and
10 Professions Code section 125.3.

11 3. Taking such other and further action as may be
12 deemed proper and appropriate.

13
14 DATED: Sept. 16, 1998

15
16 R. A. Ann-Terry
17 RUTH ANN TERRY, M.P.H., R.N.
18 Executive Officer
19 Board of Registered Nursing
20 Department of Consumer Affairs
21 State of California

22 Complainant
23
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27 03579110-
LA97AD1907
(er 9/9/98)

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 LORRIE M. YOST, State Bar No. 119088
Deputy Attorney General
3 300 South Spring Street, Suite 500
Los Angeles, California 90013
4 Telephone: (213) 897-2562

5 Attorneys for Complainant
6
7
8

9 BEFORE THE
BOARD OF REGISTERED NURSING
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation)	NO.98-162
13 Against:)	
)	
14 James Allen Stewart, also known as)	<u>ACCUSATION</u>
James Stewart, James Allen Stewart,)	
15 Jr., and Stewart James Allen Jr.)	
)	
16)	
)	
17)	
)	
18 Registered Nurse License No. 519438)	
)	
19 Respondent.)	

20
21 Ruth Ann Terry, M.P.H., R.N., for causes for
22 discipline, alleges:
23

24 1. Complainant Ruth Ann Terry, M.P.H., R.N., makes and
25 files this accusation in her official capacity as Executive
26 Officer, Board of Registered Nursing, Department of Consumer
27 Affairs.

2. On February 20, 1996, the Board of Registered Nursing issued registered nurse license number 519438 to James Allen Stewart, also known as James Stewart, James Allen Stewart, Jr., and Stewart James Allen Jr. (respondent herein). The license expired on December 31, 1997, and has not been renewed.

3. Under Business and Professions Code section 2750, the Board of Registered Nursing may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 of the Nursing Practice Act.

Under Business and Professions Code section 2764, the expiration of a license shall not deprive the Board of Registered Nursing of jurisdiction to proceed with a disciplinary proceeding against the license or to render a decision imposing discipline on the license. Under Business and Professions Code section 2811(b), the Board of Registered Nursing may reinstate an expired license within eight years after the expiration.

Under Business and Professions Code section 498, the Board of Registered Nursing may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.

Under Business and Professions Code section 490, the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of a licensed registered nurse.

1 Under Business and Professions Code section 125.3, the
2 Board may request the administrative law judge to direct a
3 licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs
5 of the investigation and enforcement of the case.

6
7 4. DRUGS

8 "Cocaine" is a Schedule II controlled substance as
9 designated by Health and Safety Code section 11055(b)(6).

10
11 5. Respondent has subjected his license to discipline
12 under Business and Professions Code section 2761(e) in that on or
13 about November 1, 1995, he knowingly made a false statement of
14 fact on his application for licensure as a registered nurse
15 (#367466) by certifying that he had not been convicted of any
16 offense other than minor traffic violations (Question "h").
17 Whereas, in fact, the following convictions were on record:

18 a. On or about May 4, 1993, respondent was convicted
19 on his plea of guilty in the San Bernardino County Superior
20 Court, Case No. MWV38983, entitled *People v. James Allen Stewart*,
21 of violating Health and Safety Code section 11550 (using or being
22 under the influence of a controlled substance).

23 The circumstances of the crimes for which respondent
24 was convicted are that on or about October 5, 1991, the Ontario
25 Police Department conducted a search at a local motel room in
26 Ontario, California, where they suspected drug trafficking
27 activities were occurring. Respondent was present in the motel

1 room during the time of the search and was asked to provided a
2 urine sample which subsequently tested positive for Cocaine.

3 b. On or about February 1, 1993, respondent was
4 convicted on his plea of guilty in the Los Angeles County
5 Superior Court, Case No. YA013553-01, entitled *People v. Stewart*
6 *James Allen Jr.*, of violating Vehicle Code section 2800.2
7 (driving in willful or wanton disregard for safety of persons or
8 property while fleeing from pursuing police officer).

9 The circumstances of the crimes for which respondent
10 was convicted are that on or about October 30, 1992, respondent
11 failed to stop the vehicle he was driving when requested to do so
12 by the Hawthorne Police Department, in Hawthorne, California.
13 Respondent lead police on a high speed chase, running several
14 stop signs, and speeding through residential neighborhoods.

15 c. On or about September 3, 1992, respondent was
16 convicted on his plea of guilty in the San Bernardino County
17 Municipal Court District, Case No. FWV 28718, entitled *People v.*
18 *James Allen Stewart*, of violating Health and Safety Code section
19 11350(a) (possession of Cocaine).

20 The circumstances of the crimes for which respondent
21 was convicted are that on or about October 16, 1991, respondent
22 willfully and unlawfully had in his possession a controlled
23 substance, to wit, Cocaine.

24
25 6. Respondent has subjected his license to discipline
26 under Business and Professions Code section 2761(b) in that he
27 procured his registered nursing license number 519438 by fraud,

1 misrepresentation, or mistake, by knowingly answering "No" for
2 Question "h" on his application, when, in fact, he did have
3 convictions on record, as set forth in paragraph 5 above.
4

5 7. Respondent has subjected his license to discipline
6 under Business and Professions Code section 498 in that he
7 secured his registered nursing license number 519438 by fraud,
8 deceit, or knowing misrepresentation of a material fact or by
9 knowingly omitting to state a material fact, as set forth in
10 paragraph 5 above, which, if the truth had been known, would have
11 constituted grounds for denial of his application for licensure.
12

13 8. Respondent has subjected his license to discipline
14 under Business and Professions Code section 2761(f) in that he
15 was convicted of the crimes as set forth in paragraph 5 above.
16 Such offenses are substantially related to the qualifications,
17 functions, and duties of a registered nurse, within the meaning
18 of Title 16, California Code of Regulations, section 1444, in
19 that they evidence a present or potential unfitness on the part
20 of respondent to perform the functions of a registered nurse in a
21 manner consistent with the public health, safety, or welfare.
22

23 9. Respondent has subjected his license to discipline
24 under Business and Professions Code section 490 in that
25 respondent was convicted of crimes substantially related to the
26 qualifications, functions or duties of a registered nurse, as set
27 forth in paragraph 5 above.

1 10. Respondent has subjected his license to discipline
2 under Business and Professions Code section 2761(a) on the
3 grounds of unprofessional conduct, as defined by section 2762(a)
4 of that code, in that he committed the following acts:

5 a. Respondent self-administered an unknown quantity
6 of Cocaine, as set forth in paragraph 5(a) above, without lawful
7 direction from a licensed physician and surgeon, dentist, or
8 podiatrist.

9 b. Respondent possessed an unknown quantity of
10 Cocaine, as set forth in paragraph 5(c) above, in violation of
11 Health and Safety Code section 11350(a).
12

13 WHEREFORE, complainant prays that a hearing be held and
14 that the Board of Registered Nursing make its order:

15 1. Revoking or suspending registered nurse license
16 number 519438, issued to James Allen Stewart, also known as James
17 Stewart, James Allen Stewart, Jr., and Stewart James Allen Jr.

18 2. Ordering James Allen Stewart, also known as James
19 Stewart, James Allen Stewart, Jr., and Stewart James Allen Jr. to
20 pay to the Board its costs in investigating and enforcing the
21 case according to proof at the hearing, pursuant to Business and
22 Professions Code section 125.3.

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1 3. Taking such other and further action as may be
2 deemed proper and appropriate.

3
4 DATED: May 8, 1998

5
6 Ruth Ann Terry
7 RUTH ANN TERRY, M.P.H., R.N.
8 Executive Officer
9 Board of Registered Nursing
 Department of Consumer Affairs
 State of California

10 Complainant
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